

EXHIBIT 55

From: Lisa Schaefer <lschaefer@pacounties.org>
Sent: 7/13/2020 8:35:13 PM +0000
To: C. David Pedri (david.pedri@luzernecounty.org); Carl Anderson <rosepedaleearth03@msn.com>; Craig Lehman (clehman@co.lancaster.pa.us); Daniel Camp (dcamp@beavercountypa.gov); Deb Baughman <dbaughman@bedfordcountypa.org>; Douglas Smith (dsmith@eriecountypa.gov); Ed Allison (lcvote@co.lawrence.pa.us); Forrest Lehman (flehman@lyco.org); Harry Haas (harry.haas@luzernecounty.org); Joseph Kantz (jkantz@snydercounty.org); Kevin Barnhardt (kbarnhardt@countyofberks.com); Lisa Deeley (lisa.deeley@phila.gov); Michael Pipe (mpipe@centrecountypa.gov); Sherene Hess (shess@indianacounty.org); Tim Benyo (TimothyBenyo@lehighcounty.org); "Boockvar, Kathryn" <kboockvar@pa.gov>; "Marks, Jonathan" <jmarks@pa.gov>
CC: Brinda Penyak <bpenyak@pacounties.org>; Melissa Anese <manese@pacounties.org>; Ashley White <awhite@pacounties.org>
Subject: [External] REMINDER: CCAP Elections Reform Committee virtual meeting - Tuesday, July 14, 2 p.m.
Attachments: ElectionsReformAgenda20200714.pdf; LehmanComments20200713.pdf; Important DOS Email re_ Absentee_Mail-in Ballot Canvass.pdf

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To: Members, CCAP Elections Reform Committee

This is a reminder of our virtual meeting, scheduled for tomorrow, July 14, at 2 p.m. Please let me know your attendance plans as I have only heard from two committee members so far.

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To access the meeting, go to <https://us02web.zoom.us/j/88296452958>, to access the meeting, or you can call in at 301-715-8592, meeting ID 882-9645-2958. The password for each option is 602089.

An agenda is attached, as are comments from committee member Forrest Lehman and a copy of guidance from DOS regarding secrecy envelopes for your reference.

In addition, committee members should be aware that a lawsuit was filed today by the Pennsylvania Democratic Party in the Commonwealth Court asking the Court to loosen some of the rules on voting in November, including extending mail in ballot deadlines:

<https://www.inquirer.com/politics/election/pennsylvania-democrats-election-lawsuit-trump-rnc-20200713.html>. We are working now to get a copy of the Complaint and will keep you updated. It appears that all counties were once again named.

EXHIBIT

Marks 08/19/20 EX28

Please let me know if you have any questions.

Thank you,

Lisa Schaefer

Executive Director

County Commissioners Association of Pennsylvania

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THE VOICE OF PENNSYLVANIA COUNTIES SINCE 1886



From: Lisa Schaefer

Sent: Thursday, July 9, 2020 10:40 AM

Subject: CCAP Elections Reform Committee virtual meeting - Tuesday, July 14, 2 p.m.

TO: Members, CCAP Elections Reform Committee

The Committee will hold a virtual meeting on **Tuesday, July 14, at 2 p.m.** Go to <https://us02web.zoom.us/j/88296452958>, to access the meeting, or you can call in at 301-715-8592, meeting ID 882-9645-2958. The password for each option is 602089.

As you know, there are many discussions ongoing regarding the litigation recently filed by the Trump campaign and others. After discussions with the CCAP Board, we have concerns about whether we will be able to coordinate a defense from a practical perspective, given the different interpretations of how these and other issues should be dealt with under the Election Code and the guidance issued by the

Department of State including, in particular, the use of ballot drop boxes and the treatment of mail-in ballots that were received without security envelopes. That said, the Board has asked the Elections Reform Committee to begin looking at the underlying policy matters raised by the litigation to see if there is any common position among the counties.

A full agenda will be forthcoming. In the meantime, please let me know your attendance plans and if you have any other questions.

Thank you,

Lisa Schaefer

Executive Director

County Commissioners Association of Pennsylvania

PO Box 60769 | Harrisburg, PA 17106-0769

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THE VOICE OF PENNSYLVANIA COUNTIES SINCE 1886





Elections Reform Committee

Meeting Agenda
Tuesday, July 14, 2020 2:00 p.m.

<https://us02web.zoom.us/j/88296452958>
or (301) 715-8592, meeting ID 882-9645-2958
Password for both: 602089

I. Call to order and introductions

II. Trump campaign litigation

On July 6, counties were served with a lawsuit brought by the Trump campaign and other plaintiffs on the Commonwealth and all 67 counties. In reviewing the Complaint and discussing the matter with the CCAP Board, it became clear that counties took a variety of different positions with regard to the issues that were raised, including, in particular, the use of ballot drop boxes and the treatment of mail-in ballots that were received without security envelopes.

Because of this, it has been difficult to determine whether there is a clear consensus for coordination of defense across all 67 counties. The CCAP Board has asked this Committee to begin looking at the matters raised in the lawsuit to see whether any unified position can be reached.

In the intervening time, a lawsuit was filed in Commonwealth Court on July 13 by the Pennsylvania Democratic Party and 15 Democratic lawmakers and candidates regarding the same matters.

A. Use of drop boxes for collection of mail-in ballots

B. Handling of absentee and mail-in ballots that lack a secrecy envelope or that have markings on the secrecy envelope

C. Allowing poll watchers from outside the county of residence

III. Legislative and advocacy update

Staff will provide a brief update on the status of elections reform legislation and requests for county advocacy.

IV. Adjournment

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Comments from Forrest Lehman

1) Drop boxes. It would be nice to have clarity on the question of whether drop boxes are permitted. I would prefer clarity from the GA, but a court will do. However, the legality of drop boxes ignores some more troubling logistical problems posed by drop boxes. How is a county to supposed to keep a drop box secure but also accessible by voters? A ballot drop box could be a target for political sabotage or mean-spirited vandalism. What if someone pours water into a drop box and ruins the ballots inside? Bodily fluids? Gasoline and a lit match? Hardly matters if the box is monitored by a camera – even if you catch the crime on tape and prosecute the perpetrator, those ballots are gone. What about the problem of where to locate them, geographical/political/racial representation, urban vs. rural, etc.

2) Ballots lacking privacy envelopes. Section 1308(g)(4) of the Election Code states in part, “All absentee ballots which have not been challenged under section 1302.2(c) and all mail-in ballots which have not been challenged under section 1302.2-D(a)(2) and that have been verified under paragraph (3) shall be counted...”

Although Section 1306 directs that a voter “shall” make use of a privacy envelope, Sections 1302.2(c) and 1302.2-D(a)(2) state that an absentee or mail-in voter may only be challenged on the basis that the applicant was not a qualified elector (i.e. not a registered voter).

Section 1308(g)(4)(ii) is the only section that directs a county board of elections to set aside an unchallenged absentee ballot or mail-in ballot during the canvassing process, and then only if the privacy envelope contains identifying markings – not if the privacy envelope is missing. That is the reasoning behind the guidance PA Dept of State emailed to counties on 28 May stating, “there is no statutory requirement, nor is there any statutory authority, for setting aside an absentee or mail-in ballot solely because the voter forgot to properly insert it into the official election ballot envelope.”

All that being said, it is difficult to explain from points A to B, and as with #1 above, it would be nice to have clarity on the issue. I would prefer clarity from the GA, and in this circumstance if the GA provided clarity to resolve the ambiguity it might render that entire portion of the complaint moot.

3) Poll watchers. The rules for watchers are clear and the counties are following them. The plaintiffs simply disagree with the rules and believe they are unconstitutional. That is fine, and they can argue with DOS in front of the court about that. I’m not sure counties have as much of a role to play here or that there is likely to be any consensus among counties as to the merit of that part of the complaint.

I would hope all counties would get behind the idea of demanding clarity from the GA or the court on items 1 and 2 and a decision about item 3 in a timely fashion. I doubt we are going to get anywhere trying to find consensus on the merits. It might be better to push the committee members to brainstorm additional details surrounding items 1-3 that we would like the GA or court to clarify – in other words, if CCAP can’t find consensus to lobby the court on the merits we should be able to push the line that counties need to know what the rules are and we need to know them sooner rather than later. One example might be asking the court to rule on privacy envelopes with identifying markings, even though that is not currently part of the suit.

From: [Marks, Jonathan](#)
To: [Marks, Jonathan](#)
Subject: Important DOS Email re: Absentee/Mail-in Ballot Canvass
Date: Thursday, May 28, 2020 7:44:27 PM
Importance: High

****CCAP Notice: This is an external email. Please use caution when clicking on links and downloading attachments.****

To all county election officials.

I hope you are all safe and well.

The department has received some questions from county officials in recent days regarding the proper disposition of absentee or mail-in ballots cast by voters who did not enclose their voted ballots in the official election ballot envelope ("secrecy" or "inner" envelope).

Though the Election Code requires county boards of elections to set aside absentee or mail-in ballots enclosed in official election ballot envelopes that contain "any text, mark or symbol which reveals the identity of the elector," there is **no statutory requirement, nor is there any statutory authority**, for setting aside an absentee or mail-in ballot solely because the voter forgot to properly insert it into the official election ballot envelope. See 25 P.S. § 3146.8(g)(4)(ii).

To preserve the secrecy of such ballots, the board of elections in its discretion may develop a process by which the members of the pre-canvass or canvass boards insert these ballots into empty official election ballot envelopes or privacy sleeves until such time as they are ready to be tabulated.

Please consult with your solicitor about your plans to deal with such instances should they occur during the pre-canvass or canvass.

Thank you for everything you are doing to administer the 2020 Primary while coping with the unique challenges presented by COVID-19.

Kind regards,

Jonathan M. Marks
Deputy Secretary for Elections & Commissions
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